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7  
8 UNITED STATES BANKRUPTCY COURT  
9  
10 DISTRICT OF NEVADA (LAS VEGAS)

11 IN RE: ) BK-S-09-29126-mkn  
12 HOTEL FURNITURE SALES, INC. )  
13 Debtor, ) DECLARATION OF MARC L.  
14 ) SIMON, ESQ., IN SUPPORT OF  
15 ) MOTION OF L & B HARMON, LLC  
16 ) FOR RELIEF FROM THE  
17 ) AUTOMATIC STAY OR IN THE  
18 ) ALTERNATIVE FOR ASSUMPTION  
19 ) OR REJECTION OF EXECUTORY  
20 ) CONTRACT  
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16 Marc L. Simon, Esq., under penalty of perjury under the laws of the United States, declares  
17 as follows:

18 That I am legal counsel for L & B Harmon, LLC, the Movant herein. That I have personal  
19 knowledge of the facts set forth herein, am competent to testify thereto, and would so testify if  
20 called as a witness in this matter.

21 That on or about January 4, 2010, L&B, as landlord, entered into a commercial lease for  
22 property located at 4170 W. Harmon Avenue, Suite 6, Las Vegas, Nevada, 89103, with Hotel  
23 Furniture Liquidators, a Nevada corporation (“Liquidators”), as tenant. A true and correct copy of  
24 the Lease Agreement between L&B and Liquidators is attached hereto, incorporated by this  
25 reference and marked as Exhibit A. At the outset it must be noted that the principal of Liquidators  
26 (which entity is not the Debtor herein) and guarantor of the aforesaid lease is Barton K. Maybie  
27 (“Maybie”). Maybie is also the principal of Hotel Furniture Sales, Inc. (“Sales”), the Debtor herein.

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1       Liquidators, for all practical purposes, honored its leasehold obligations to L&B through  
2 August 2010. However, on or about August 17, 2010, Liquidators unexpectedly informed L&B that  
3 Clark County Business License Division was then requiring an addendum to the aforesaid lease in  
4 order that Sales could be added as a co-tenant thereon. Liquidators did not at such time advise L&B  
5 that Sales was a Chapter 11 debtor. Liquidators also failed to provide L&B with any  
6 correspondence generated directly by Clark County Business Licensing confirming either the need  
7 or the reasons why, after nearly eight (8) plus months of operation, Sales suddenly needed to be  
8 added to the lease of Liquidators. A true and correct copy of an August 17, 2010 letter from  
9 Katherine Duncan, National Sales Manager for Liquidators, requesting such Lease modification, is  
10 attached hereto, incorporated by this reference and marked as Exhibit B.

11       In reliance upon the foregoing, and still unaware of any potential problems that might be  
12 created thereby, on or about September 22, 2010 L&B added Sales as a co-tenant upon its lease  
13 with Liquidators. Attached hereto as Exhibit C is a true and correct copy of the Lease Addendum  
14 involved by virtue of which Sales became a co-tenant.

15       No sooner had Sales been added as a co-tenant, did Liquidators and Sales become  
16 delinquent as to their lease payments. In this regard, attached hereto as Exhibit D is a true and  
17 correct copy of a reconciliation of such tenants' outstanding balance as of October 8, 2010. Such  
18 document, prepared by Leslie Kent, Senior Real Estate Manager for CB Richard Ellis, the property  
19 manager for L&B, reflects as of such date an outstanding balance in excess of \$41,000.00. It must  
20 also be noted that as of such date neither L&B nor its property manager were yet aware of Sales'  
21 Chapter 11 status.

22       Based upon the foregoing delinquency, a Five (5) Day Notice to Pay Rent or in the  
23 Alternative to Quit was served upon Liquidators on October 12, 2010. A true and correct copy of  
24 said Five (5) Day Notice is attached hereto, incorporated by this reference and marked as Exhibit E.

25       Within but a few days thereafter, L&B and CB Richard Ellis were first made aware of Sales'  
26 involvement in a Chapter 11 proceeding. In this regard, a true and correct copy of an October 15,  
27 2010 letter from Jason A. Imes, Esq., counsel for Debtor's Chapter 11 Trustee, is attached hereto,  
28 incorporated by this reference and marked as Exhibit F.

Relative to the arrearage involved, L&B did, on or about October 20, 2010, receive from Lenard E. Schwartzer, Chapter 11 Trustee for Sales, a lease payment in the sum of \$16,375.42. A true and correct copy of such payment is attached hereto, incorporated by this reference and marked as Exhibit G. Such sum has now been negotiated by Movant, and as a result there remains due and owing to L&B the sum of \$43,481.54 as of November 6, 2010.

On October 27, 2010, upon an Order Shortening Time, a hearing is believed to have been held before this Court upon the Motion of the Chapter 11 Trustee for conversion of this case to one under Chapter 7. As of this writing, Movant is unaware if the subject bankruptcy proceeding has in fact been converted, and if such has occurred, whether a Chapter 7 Trustee has been appointed.

Finally, prior to the filing of this Motion, counsel for L&B did, pursuant to FRBP 4001(a)(2), attempt to resolve this matter without court action. Several telephone calls were placed to counsel Imes to ascertain the intentions of the Debtor, whether it be in Chapter 11 or Chapter 7. None of such phone calls were returned.

Dated in Las Vegas, Nevada, this 5 day of November, 2010.

Marc L. Simon, Esq.

EXHIBITS to Declaration of Marc L. Simon, Esq.

- A. Standard Industrial/Commercial Multi-Tenant Lease dated January 4, 2010
- B. Letter dated August 17, 2010 from Katherine Duncan, National Sales Manager for Hotel Furniture Liquidators, to L & B Harmon, LLC
- C. Lease Addendum dated September 22, 2010
- D. Outstanding Balance as of October 11, 2010, prepared by Leslie Kent, Senior Real Estate Manager for CB Richard Ellis, the property manager for L & B Harmon, LLC
- E. Five Day Notice to Pay Rent or in the Alternative to Quit, with Affidavit of Service, served October 12, 2010
- F. Letter dated October 15, 2010, from Jason A. Imes, Esq., counsel to Lenard E. Schwartzer, Chapter 11 Trustee
- G. Copy of check dated October 20, 2010 from Lenard E. Schwartzer, Chapter 11 Trustee, to L & B Harmon, LLC